

Congressional Record

March 29, 2007

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Mr. SPECTER. Mr. President, I seek recognition to discuss a matter of the utmost importance, a pay raise for judges and justices of the United States.

The salaries of article III judges are inadequate for the stature and duties that are attendant to the job. The low salaries threaten the independence and excellence of the judiciary.

The Framers sought to ensure that the Federal judges would be independent--free from persuasion--to impartially apply the law. Alexander Hamilton wrote in the Federalist No. 79: ``Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support..... In the general course of human nature, a

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power over a man's subsistence amounts to a power over his will."

For this reason, though Congress was charged with providing for the judiciary's support, judges were given salary protection in the compensation clause in article III, section 1 of the U.S. Constitution. This clause provides that ``the Judges, both of the supreme and inferior Courts, shall hold their offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office." The Framers gave judges salary protection so that they could be independent, free from the threat of salary diminution by Congress. They recognized that independence was key to the ability of judges to implement the rule of law without fear or favor. Judicial independence is the cornerstone of our legal system, which has been the model for judiciaries throughout the world.

This constitutional protection against salary diminution, so central to judicial independence, is undermined when judicial salaries are allowed to steadily decline through neglect. And the independent judiciary our forefathers envisioned is undermined when Congress fails to attend to the needs of its principals and insists on tying of their salaries to those of elected leaders.

The last time Congress significantly raised the pay of Federal judges was in 1989, when the Ethics Reform Act raised their salaries by 25 percent. At the same time, however, the act curtailed judges' ability to earn outside income. Although the act provided for annual cost-of-living adjustments, these annual increases have not been realized due to congressional inaction in 5 of the last 13 years. Thus, the real pay of judges has continued to decline--12 percent since the Ethics Reform Act was enacted. The decline of judicial salaries since 1969 is even starker--the real pay of district judges has decreased by nearly 25 percent since 1969. During the same time period, the salary for the average American worker increased by about 19 percent.

Obviously, we cannot equate the judges' pay with that of ordinary working Americans. No one would argue that Federal judges' salaries are worse than those of the vast majority of American taxpayers. However, Federal judges' pay has not kept pace with the salary increases of their peers within the legal profession. In 1969, Federal judges' salaries exceeded those of top law school deans by 21 percent. Today, in contrast, Federal district judges earn about half as much as deans at these law schools. In fact, the salary of a district judge today--\$165,200--is a mere \$20,000 more than what a first year associate at a New York law firm earns. Partners in law firms often earn an excess of \$1 million per year.

Nor have judicial salaries kept up with the salaries of other government servants. The Chief Justice of the United States earns \$212,100, while the Chief Learning Officer at the Federal Deposit Insurance Corporation earns up to \$257,134. Many other government employees can receive in excess of \$200,000 per year in compensation, while judges for the courts of appeal earn \$175,100 and district court judges earn \$165,200.

Chief Justice Roberts and Justice Kennedy have both recently addressed the toll that these comparatively low judicial salaries are taking on his fellow justices and judges. On February 14, 2007, Justice Kennedy addressed the Judiciary Committee and related that in more than 30 years as a judge, he has never seen his "colleagues so dispirited as at the present time." He testified that "if there is a continued neglect of compensation needs," he is concerned that low morale will lead to a judiciary that "will be diminished in its stature and its capacity." Chief Justice Roberts also addressed this problem, devoting his entire 2006 Year End Report on the Federal Judiciary to the topic. He raised concerns that the low salaries of judges threaten the ability of the judiciary to draw the best and the brightest legal minds into service. The Chief Justice raised the alarm that "without fair judicial compensation we cannot preserve the quality and independence of our judiciary, which is the model for the world." Further, he fears that the relative inadequacy of judicial compensation is cause for judges to leave the bench for more lucrative careers elsewhere. He wrote that "[i]f judicial appointment ceases to be the capstone of a distinguished career and instead becomes a stepping stone to a lucrative position in private practice, the Framers' goal of a truly independent judiciary will be placed in serious jeopardy."

On a related note, I would like to address the notion that judicial salaries should be linked to salaries for Senators and Members of the House. Judges should not be held hostage because political winds make it difficult for elected leaders to raise their own salaries. It is high time to dispense with the idea that the two ought to be linked. The judicial branch is separate but equal to the legislative branch, each with its own needs, each of equivalent stature. We cannot continue to humble the judiciary, neglecting our constitutional mandate to provide for its support, ignoring its independence, by tying judges' compensation to our own.

The problems of inadequate judicial compensation and the linking of judicial salaries to those of elected leaders are not new. Chief Justice Rehnquist raised the inadequacy of judicial compensation for nearly 20 years, and the National Commission on the Public Service--the "Volcker Commission"--addressed judicial pay increases and linkage in its 2003 report on revitalizing the Federal Government. The Commission recommended a substantial pay raise for judges, calling the judicial compensation "the most egregious example of the failure of federal

compensation policies." The Commission also recommended breaking the link between salaries for Members of Congress and those for judges. The Commission admonished Congress that ``judicial salaries must be determined by procedures that tie them to the needs of the government, not the career related political exigencies of members of Congress." The American Bar Association and the Federal Bar Association have also endorsed increasing judicial salaries and delinking judicial salaries from those of elected leaders.

It is imperative that Congress address a judicial salary increase soon and decouple the salaries of judges with those of Members of Congress. I urge my colleagues to join me in this effort to ensure that the salaries for our judicial brethren are commensurate with the duties and stature of their positions and that salary policy respects the independence of this coequal branch of government. Our failure to act prevents us from showing proper respect to a coordinate branch of our constitutional government.